

### REMARKS

The claims in the application are 6-20 and Claims 21-25 added by the present amendment.

Favorable reconsideration of the application as amended is respectfully requested.

The claims have been amended to eliminate the rejections under 35 U.S.C. §112, second paragraph, raised in paragraph 5 of the Office Action. Independent Claim 21 added herein is essentially directed to a combination of Claims 1 and 10, while dependent Claim 22 finds clear support in the present application, e.g., Fig. 8 and page 12, lines 17-32 of the specification. Claim 23 is directed to recitation deleted from Claim 12 while Claims 24 and 25 respectively correspond to recitation found in Claims 11 and 12.

Accordingly, the amendment to the claims herein finds clear support throughout the present application. Claims 1-5 which have been withdrawn from consideration in paragraph 2 of the Office Action have been canceled without prejudice, the right specifically being reserved to filing a divisional application to these withdrawn claims.

Concerning the objection to the drawings raised in paragraph 8 of the Office Action, attention is respectfully called to Figs. 15a-c which most certainly illustrate rotating the driver's seat (or basket) 35 about a vertical axis relative to the chassis 3 (reference is being made to preferred embodiments of the present invention illustrated in the drawings of the present application). Claim 20 has been clarified to recite rotating of the driver's seat (or basket) 35. Accordingly, it is respectfully requested the objection to the drawings be withdrawn.

Concerning the enablement rejection of Claims 17-20 under 35 U.S.C. §112, first paragraph, raised in paragraph 7 of the Office Action, it is respectfully submitted the amendment to Claim 20 *supra* clarifies recitation in this claim and thus eliminates the enablement rejection. Furthermore, it is respectfully submitted one skilled in the art, based upon the disclosure found, e.g., at page 9, lines 31-35 of the specification, can quite clearly understand how to adjust distance between forks 9 with power means 11, as recited in Claim 17. Accordingly, it is respectfully requested Claims 17-20 be treated on the merits.

Therefore, the only outstanding issue is the prior art rejection of the claims.

Claims 6-16 have been rejected under 35 U.S.C. §102 as being anticipated by U.S. Pat. No. 6,779,961 to Barney et al in paragraph 10 of the Office Action. However, Barney et al fail to either anticipate or render obvious the present invention for the following reasons (reference will be made to preferred embodiments of the present invention illustrated in the drawings of the present application).

The present invention improves both maneuverability and space requirements of an industrial truck-type vehicle, e.g., a fork-lift truck. These advantages are attained by the present invention as recited, e.g., in independent Claim 1 and which is directed to, among other features, provision of a beam 12 pivotally connecting the lifting unit 8 (having the load carrying members 9) to the chassis 3 about a horizontal axis 26 extending between at least two at least three wheels 4, 4' supporting the chassis 3. These advantages are also attained by the present invention as recited, e.g., in independent Claim 21 and which is

directed to, among other features, the load-carrying members 9 being pivotally connected to the beam 12 about a second horizontal axis 30 with power means 31 (separate from the power means 27 pivoting the beam 12 about the first horizontal axis 26) pivoting the load-carrying members 9 about the second horizontal axis 30 (improved maneuvering is illustrated, e.g., in Fig. 10 of the present invention).

Among the differences from the claimed invention, Barney et al fail to show a beam 12 pivotal about a horizontal axis 26 extending between at least two of the three wheels 4, 4' as recited in independent Claim 1. In Barney et al, the horizontal axis upon which boom 20 is pivoted clearly does not extend between any of the wheels 14, 16. Furthermore, there is no disclosure or suggestion in Barney et al of load-carrying members 9 being pivotally mounted upon a beam 12 at a second horizontal axis 30 and separate power means 31 provided to pivot the load-carrying members 9 about this second axis 30 as recited in independent Claim 21.

The remaining art of record has not been applied against the claims and will not be commented upon further at this time.

Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted the present application in condition for allowance. Please contact the undersigned attorney should there be any questions. A petition for an automatic one month extension of time for response under 37 C.F.R. §1.136(a) is enclosed in triplicate, together with the requisite petition fee.

Early favorable action is earnestly solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "George M. Kaplan", is written over a horizontal line.

George M. Kaplan

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